

IC 27-13-2

Chapter 2. Establishment of Health Maintenance Organizations

IC 27-13-2-1

Persons applying for certificate of authority

Sec. 1. Notwithstanding any other law, any person may apply to the commissioner for a certificate of authority to establish and operate a health maintenance organization under this article.

As added by P.L.26-1994, SEC.25.

IC 27-13-2-2

Certificate of authority required

Sec. 2. (a) A person may not establish or operate a health maintenance organization without obtaining a certificate of authority under this article.

(b) If a participating provider contracts with another provider under a contract that complies with IC 27-13-15 to provide health services on a prepaid basis to enrollees of a health maintenance organization that holds a certificate of authority, neither provider, with respect to the contract is:

- (1) considered to be engaged in the business of insurance; or
- (2) required to obtain a certificate of authority under this article.

As added by P.L.26-1994, SEC.25. Amended by P.L.195-1996, SEC.3.

IC 27-13-2-3

Foreign entities obtaining certificate of authority

Sec. 3. (a) A foreign corporation, other than a foreign corporation defined under IC 27-1-2-3, may obtain a certificate of authority if the foreign corporation:

- (1) is authorized to do business in Indiana under IC 23-1-49 or IC 23-17-26; and
- (2) complies with this article.

(b) A foreign corporation (as defined in IC 27-1-2-3) may obtain a certificate of authority if the foreign corporation complies with this article.

(c) A foreign or alien health maintenance organization granted a certificate of authority under this section has the same but no greater rights and privileges than a domestic health maintenance organization.

As added by P.L.26-1994, SEC.25. Amended by P.L.203-2001, SEC.15.

IC 27-13-2-4

Certificate of authority application; verification; form

Sec. 4. An application for a certificate of authority to operate a health maintenance organization must be:

- (1) verified by an officer or authorized representative of the applicant; and
- (2) submitted on a form prescribed by the commissioner.

As added by P.L.26-1994, SEC.25.

IC 27-13-2-5

Certificate of authority application; requirements

Sec. 5. An application for a certificate of authority to operate a health maintenance organization must set forth or be accompanied by the following:

- (1) A copy of the organizational documents of the applicant, such as the articles of incorporation, partnership agreement, trust agreement, articles of organization, or any other applicable documents, and all amendments to those documents.
- (2) A copy of the bylaws, rules and regulations, or similar document regulating the conduct of the internal affairs of the applicant.
- (3) A list, on a form acceptable to the commissioner, of the names, addresses, official positions, and biographical information of the persons who are to be responsible for the conduct of the affairs and daily operations of the applicant, including the following:
 - (A) All members of the board of directors, board of trustees, executive committee, or other governing board or committee of the applicant.
 - (B) The principal officers, if the applicant is a corporation.
 - (C) The partners or members, if the applicant is a partnership or an association.
 - (D) The manager or, if there is no manager, all members of a limited liability company.
- (4) A copy of any contract form that has been made or is to be made between any class of providers and the health maintenance organization.
- (5) A copy of any contract that has been made or is to be made between:
 - (A) third party administrators, agents, or persons identified under subdivision (3); and
 - (B) the health maintenance organization.
- (6) A copy of the form of evidence of coverage that is to be issued by the health maintenance organization to an enrollee.
- (7) A copy of the form of a group contract, if any, that is to be issued by the health maintenance organization to an employer, a union, a trustee, or another entity.
- (8) Financial statements showing the assets, liabilities, and sources of financial support of the applicant, including:
 - (A) a copy of the most recent certified financial statement of the applicant; and
 - (B) an unaudited current financial statement.
- (9) A financial feasibility plan that includes the following:
 - (A) Detailed enrollment projections.
 - (B) The methodology for determining premium rates to be charged during the first twelve (12) months of operations, certified by an actuary or other qualified person acceptable

to the commissioner.

(C) A projection of:

- (i) balance sheets;
- (ii) cash flow statements showing any capital expenditures, purchase and sale of investments, and deposits with the state; and
- (iii) income and expense statements;

anticipated from the start of operations until the organization has had net income for at least one (1) year.

(D) A statement of the sources of working capital as well as any other sources of funding.

(10) If the applicant is not domiciled in Indiana, an executed power of attorney appointing the commissioner, the commissioner's successors in office, and authorized deputies of the commissioner as the true and lawful attorney of the applicant in and for Indiana upon whom all lawful process in any legal action or proceeding against the health maintenance organization on a cause of action arising in Indiana may be served.

(11) A statement or map reasonably indicating, on a county-by-county basis, the service area to be served by the health maintenance organization.

(12) A description of the internal procedures to be used by the health maintenance organization for the investigation and resolution of the complaints and grievances of enrollees.

(13) A description of the proposed quality management program of the applicant, including the following:

- (A) The formal organizational structure.
- (B) Methods for developing criteria.
- (C) Procedures for comprehensive evaluation of the quality of care rendered to enrollees.
- (D) Processes to initiate corrective action and reevaluation when deficiencies in provider performance or organizational performance are identified.

(14) A description of the procedures to be implemented to meet the requirements set forth in IC 27-13-12 through IC 27-13-17.

(15) A list of the names, addresses, and license numbers of any providers with whom the health maintenance organization has agreements.

(16) Any other information required by the commissioner to make the determination required under IC 27-13-3.

As added by P.L.26-1994, SEC.25.

IC 27-13-2-6

Certificate of authority application; modifications or amendments

Sec. 6. (a) An applicant shall submit to the commissioner any modifications or amendments to the items of information required in an application under section 5 of this chapter.

(b) The commissioner may adopt rules under this section that provide that any modifications or amendments to the items of

information in the application required of a health maintenance organization:

(1) must be submitted to the commissioner before the modification or amendment takes effect:

(A) for the approval of the commissioner; or

(B) for the information of the commissioner only; or

(2) must be indicated by the health maintenance organization to the commissioner at the time of the next succeeding site visit or examination of the organization by the department of insurance.

(c) A health maintenance organization shall file any assumed corporate name with the department at least thirty (30) days before assuming the name.

As added by P.L.26-1994, SEC.25. Amended by P.L.203-2001, SEC.16.

IC 27-13-2-7

Certificate of authority application; approval of modifications or amendments

Sec. 7. Any modification or amendment requiring the approval of the commissioner under rules adopted under section 6 of this chapter is considered approved unless the commissioner disapproves the modification or amendment not more than thirty (30) days after the modification or amendment is submitted. However, the commissioner may postpone the action, if necessary for proper consideration, and if the commissioner gives written notice of the postponement to the applicant before the expiration of the thirty (30) day period.

As added by P.L.26-1994, SEC.25.

IC 27-13-2-8

Waiver of rights under bankruptcy laws

Sec. 8. The commissioner may not issue a certificate of authority to operate a health maintenance organization unless the applicant has submitted to the commissioner a written waiver of the health maintenance organization's rights under the federal bankruptcy laws.

As added by P.L.26-1994, SEC.25.

IC 27-13-2-9

Prohibited names

Sec. 9. (a) A health maintenance organization established under this article may not:

(1) use as a part of its corporate name the words "United States", "Federal", "government", "official", or any word that would imply that the company is an administrative agency of the state of Indiana or of the United States, or that it is subject to supervision of any department other than the department of insurance; or

(2) take or assume a corporate name the same as, or confusingly similar to, an existing name of any other insurance company or other entity licensed or regulated under IC 27, unless at the

same time:

- (A) the other company changes its corporate name or withdraws from transacting business in Indiana; and
- (B) the written consent of the other company, signed and verified under oath by its secretary, is filed with the department.

(b) This section does not affect the right of any health maintenance organization that:

- (1) exists under the laws of Indiana as of July 1, 2001;
- (2) exists under the laws of Indiana as of July 1, 2001, and thereafter reorganizes or reincorporates under this article; or
- (3) is authorized to transact business in Indiana as of July 1, 2001;

to continue the use of its corporate name.

As added by P.L.203-2001, SEC.17.